

Article 66.

Hospital, Medical and Dental Service Corporation Readable Insurance Certificates Act.

§ 58-66-1. Title.

This Article is known and may be cited as the "Hospital, Medical and Dental Service Corporation Readable Insurance Certificates Act." (1979, 2nd Sess., c. 1161, s. 1.)

§ 58-66-5. Purpose.

The purpose of this Article is to provide that insurance certificates and subscriber contracts under this Article and Article 65 of this Chapter be readable by a person of average intelligence, experience, and education. All insurers are required by this Article to use certificate and contract forms and, where applicable, benefit booklets that are written in simple and commonly used language, that are logically and clearly arranged, and that are printed in a legible format. (1979, 2nd Sess., c. 1161, s. 1.)

§ 58-66-10. Scope of application.

(a) Except as provided in subsection (b) of this section, the provisions of this Article apply to the certificates and contracts of direct insurance and health care coverage that are described in G.S. 58-65-60(a) and (b).

(b) Nothing in this Article applies to:

- (1) Any group contract or certificate, nor any group certificate delivered or issued for delivery outside of this State;
- (2) Insurers who issue benefit booklets on group and nongroup bases explaining the certificates or contracts issued under G.S. 58-65-60. In such cases, the provisions of this Article apply only to the benefit booklets furnished to the persons insured, and not to the certificates.

(c) No other provision of the General Statutes setting language simplification standards shall apply to any certificate forms covered by this Article.

(d) Any non-English language certificate delivered or issued for delivery in this State shall be deemed to be in compliance with this Article if the insurer certifies that such certificate is translated from an English language certificate which does comply with this Article. (1979, 2nd Sess., c. 1161, s. 1.)

§ 58-66-15. Definitions.

As used in this Article, unless the context clearly indicates otherwise:

- (1) "Benefit booklet" means any written explanation of insurance coverages or benefits issued by an insurer and which is supplemental to and not a part of an insurance certificate or subscriber contract.
- (2) "Commissioner" means the Commissioner of Insurance.
- (3) "Flesch scale analysis readability score" means a measurement of the ease of readability of an insurance certificate or contract made pursuant to the procedures described in G.S. 58-66-25.
- (4) "Insurance certificate or contract" or "policy" or "certificate" means an agreement as defined by G.S. 58-65-60.

- (5) "Insurer" means every corporation providing contracts or certificates of coverage of insurance as described in G.S. 58-65-1. (1979, 2nd Sess., c. 1161, s. 1.)

§ 58-66-20. Format requirements.

(a) All certificates and contracts covered by G.S. 58-66-35 must be printed in a type face at least as large as 10 point modern type, one point leaded, be written in a logical and clear order and form, and contain the following items:

- (1) On the cover, first, or insert page of the certificate a statement that the certificate is a legal contract between the certificate owner and the insurer, and the statement, printed in larger or other contrasting type or color, "Read your certificate carefully";
- (2) An index of the major provisions of the certificate, which may include the following items:
 - a. The person or persons insured by the certificate;
 - b. The applicable events, occurrences, conditions, losses, or damages covered by the certificate;
 - c. The limitations or conditions on the coverage of the certificate;
 - d. Definitional sections of the certificate;
 - e. Provisions governing the procedure for filing a claim under the certificate;
 - f. Provisions governing cancellation, renewal, or amendment of the certificate by either the insurer or the subscriber;
 - g. Any options under the certificate; and
 - h. Provisions governing the insurer's duties and powers in the event that suit is filed against the subscriber.

(b) In determining whether or not a certificate is written in a logical and clear order and form the Commissioner must consider the following factors:

- (1) The extent to which sections or provisions are set off and clearly identified by titles, headings, or margin notations;
- (2) The use of a more readable format, such as narrative or outline forms;
- (3) Margin size and the amount and use of space to separate sections of the policy; and
- (4) Contrast and legibility of the colors of the ink and paper, and the use of contrasting titles or headings for sections. (1979, 2nd Sess., c. 1161, s. 1.)

§ 58-66-25. Flesch scale analysis readability score; procedures.

(a) A Flesch scale analysis readability score will be measured as provided in this section.

(b) For certificates containing 10,000 words or less of text, the entire certificate must be analyzed. For certificates containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed in lieu of the entire certificate. The samples must be separated by at least 20 printed lines. For the purposes of this subsection a word will be counted as five printed characters or spaces between characters.

(c) The number of words and sentences in the text must be counted and the total number of words divided by the total number of sentences. The figure obtained must be multiplied by a

factor of 1.015. The total number of syllables must be counted and divided by the total number of words. The figure obtained must be multiplied by a factor of 84.6. The sum of the figures computed under this subsection subtracted from 206.835 equals the Flesch scale analysis readability score for the certificate.

(d) For the purposes of subsection (c) of this section the following procedures must be used:

- (1) A contraction, hyphenated word, or numbers and letters, when separated by spaces, will be counted as one word;
 - (2) A unit of words ending with a period, semicolon, or colon, but excluding headings, and captions will be counted as a sentence; and
 - (3) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- (e) The term "text" as used in this section includes all printed matter except the following:
- (1) The name and address of the insurer; the name, number or title of the certificate; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and
 - (2) Any certificate language that is drafted to conform to the requirements of any law, regulation, or agency interpretation of any state or the federal government; any certificate language required by any collectively bargained agreement; any medical terminology; and any words that are defined in the certificate: Provided, however, that the insurer submits with his filing under G.S. 58-66-30 a certified document identifying the language or terminology that is entitled to be excepted by this subdivision. (1979, 2nd Sess., c. 1161, s. 1.)

§ 58-66-30. Filing requirements; duties of the Commissioner.

(a) No insurer may make, issue, amend or renew any certificate or contract after the dates specified in G.S. 58-66-35 for the applicable type of insurance unless the certificate is in compliance with the provisions of G.S. 58-66-20 and 58-66-25, and unless the certificate is filed with the Commissioner for this approval. The policy will be deemed approved 90 days after filing unless disapproved within the 90-day period. The Commissioner may not unreasonably withhold this approval. Any disapproval must be delivered to the insurer in writing and must state the grounds for disapproval. Any certificate filed with the Commissioner must be accompanied by a certified Flesch scale readability analysis and test score and by the insurer's certification that the policy is, in the insurer's judgment, readable based on the factors specified in G.S. 58-66-20 and 58-66-25.

(b) The Commissioner must disapprove any certificate covered by subsection (a) of this section if he finds that:

- (1) It is not accompanied by a certified Flesch scale analysis readability score of 50 or more;
- (2) It is not accompanied by the insurer's certification that the certificate is, in the judgment of the insurer, readable under the standards of this Article; or
- (3) It does not comply with the format requirements of G.S. 58-66-20. (1979, 2nd Sess., c. 1161, s. 1; 1995, c. 193, s. 57.)

§ 58-66-35. Application to policies; dates.

(a) The filing requirements of G.S. 58-66-30 apply to all subscribers' contracts of hospital, medical, and dental service corporations as described in G.S. 58-65-60(a) and (b) that are made, issued, amended or renewed after July 1, 1983.

(b) Repealed by Session Laws 1995, c. 193, s. 58, effective June 7, 1995. (1979, 2nd Sess., c. 1161, s. 1; 1995, c. 193, s. 58; 1995 (Reg. Sess., 1996), c. 742, s. 28.)

§ 58-66-40. Construction.

(a) The provisions of this Article will not operate to relieve any insurer from any provision of law regulating the contents or provisions of insurance certificates or contracts nor operate to reduce an insured's, beneficiary's or subscriber's rights or protection granted under any statute or provision of the law.

(b) The provisions of this Article shall not be construed to mandate, require, or allow alteration of the legal effect of any provision of any insurance certificate or contract.

(c) In any action brought by a subscriber or claimant arising out of a certificate approved pursuant to this Article, the subscriber or claimant may base such an action on either or both (i) the substantive language prescribed by such other statute or provision of law, or (ii) the wording of the approved certificate. (1979, 2nd Sess., c. 1161, s. 1.)